

REMARKS

I. Status of the Subject Application

Claims 1-8, 14-18, 20-23, 79, 83 and 84 are pending in the Subject Application and stand rejected under 35 U.S.C. §103(a). Claims 74-78 were canceled in the Amendment filed by Applicants on September 7, 1999 in response to the Office Action dated June 16, 1999, wherein claims 74-78 were withdrawn by Examiner. Thus, claims 74-78 are not addressed further below. In the present Amendment, Applicants have amended independent claims 1 and 15. Applicants submit that no new matter has been added. Applicants respectfully traverse the claim rejections as follows.

II. Claim Rejections - 35 U.S.C. §103(a)

Claims 1-8, 14-18, 20-23, 79, 83 and 84 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,696,213 to Conneally ("Conneally") in view of Delta model 36-906 ("Delta") and further in view of "Official Notice".

Amended claims 1 and 15 are directed to a saw that includes, among other elements, an infeed rail configured to permit unrestricted adjustment in the elevation of the infeed extension relative to the work surface. As will be discussed below, neither Delta nor Conneally disclose structure or equivalent structure that reads on these amended independent claims.

As stated in the prior response, Conneally is specifically directed to a horizontal fine adjustment mechanism for a table saw fence assembly. The table saw (10) has a fence guide (20) adapted to engage an L-shaped track (12). See FIG. 1. The fence guide (20) has a "friction drive means" (24) that is accessible through at least one opening (32) for manual lateral operation thereof. See FIG. 4. The friction drive means (24) includes a pair of spools (34) that extend through corresponding openings (32) and that rotatably engage the track (12) for friction driven horizontal movement. See column 3, lines 50-57 and FIG. 7, which is shown below.

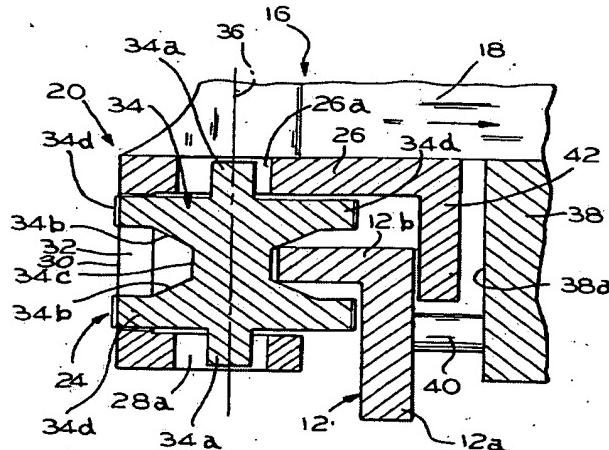


FIG. 7

Each spool (34) has a pair of frustoconical drive surfaces (34b) that simultaneously engage the horizontally extending flange portion (12b) of the track (12) for friction driven rotational movement. See column 4, lines 1-3 and 11-19, and FIG. 7. Conneally provides that "frustoconical surfaces 34b are in engagement with the sharp edges 12b' of the horizontally extending portion 12b of the track 12 as illustrated in FIG. 7" to enable lateral fine adjustment. See column 5, lines 10-15. Thus, it is the frictional engagement of the sharp edges (12b) with the frustoconical surfaces (34b) that provide the Conneally device with its fine tuning ability.

Delta 36-906 is directed to a fence guide for a table saw that has the ability to be adjusted so that the face of the fence (A) is ninety degrees relative to the table. See page 15, "ADJUSTING FENCE 90 DEGREES TO TABLE". The guide rail is made of an elongated horizontally opening channel (G), into which the clamp bracket must be inserted. See page 11. This is to prevent the fence guide from sliding out of the channel (G) and causing failure. See page 11. Further, Delta 36-906 has a fence height adjustment mechanism, called the clamp plate (B), which is provided for changing the elevation of the fence (A) by manipulating the two lock knobs (C). See page 12.

The Manual of Patent Examining Procedure ("MPEP") provides that if a "proposed modification would render the prior art invention being modified unsatisfactory for its *intended purpose*, then there is *no suggestion or motivation to make the proposed modification*. See MPEP §2143.01 (*emphasis added*). The

adjustment arrangement disclosed in Conneally has an intended purpose of providing fine *horizontal* adjustment of the table saw fence through selective engagement of a pair of frustoconical drive surfaces (34b) that simultaneously engage the horizontally extending flange portion (12b) of the track (12). See FIG. 7 above. If Conneally were modified by adding a height adjustment mechanism, the axis (36) about which the spool (34) must rotate would cease to be generally perpendicular to the spaced apart surfaces (26, 28) of the face guide (20) as required in the Conneally specification and in each of Conneally's independent claims. See col. 3, ll. 49-53; claims 1, 4 and 11. Thus, the frustoconical drive surfaces (34b) of the spool (34) would become bound up on the horizontally extending flange portion (12b) and would prevent any adjustment in elevation. See Conneally, FIG. 7 (clearance between (34b) and (12b) negligible). Further, such a modification would render Conneally unsatisfactory for its intended purpose. Accordingly, Applicants submit that there is no teaching to combine the Delta brochure with Conneally and, in fact, that Conneally and Delta teach away from each other. Thus, a *prima facie* case of obviousness has not been established with respect to independent claims 1 and 15 or the claims that depend therefrom.

Further, the arrangement of elements in Conneally and Delta requires structure that restricts the elevational adjustment relative to the table, namely the horizontally extending portion (12b) and the elongated horizontally opening channel (G), respectively. Amended claims 1 and 15 now recite that the infeed rail is configured to permit unrestricted adjustment in the elevation of the infeed extension relative to the work surface. Neither Conneally nor Delta, nor any alleged combination of the two, disclose every element of the amended claims. Thus, Conneally and Delta do not teach nor suggest all of the claim limitations.

Applicants further hereby traverse the assertion of Official notice in the Office Action with respect to claims 1-8, 14-18, 20-23, 79, 83 and 84, and respectfully submit that the Office Action has not presented evidence to establish the existence of prior art references or teachings that disclose or suggest that "such adjustment mechanisms are old and well known in the art".

III. Petition for Extension of Time

Applicants hereby petition for a one-month extension of time. If additional time is required, please consider this a Petition therefor. Applicants are herewith enclosing a check in the amount of \$110. The PTO is hereby authorized to charge any fee deficiencies associated with this Amendment to Deposit Account 11-1110.

IV. Conclusion

In sum, Applicants respectfully submit that all of the pending claims are in condition for allowance. Applicants' response should not in any way be taken as an acquiescence to any of the specific assertions, statements, "Official Notice", etc. presented in the Official Action not explicitly addressed herein. Applicants reserve the right to specifically address all such assertions and statements in subsequent responses and/or on appeal if necessary. Applicants have made a diligent effort to respond to the rejection presented in the Official Action. If the Examiner has any remaining concerns regarding the patentability of any of the pending claims, Examiner is invited to contact the undersigned at the telephone number set forth below so that such concerns may be expeditiously addressed. Accordingly, Applicants earnestly request reconsideration and withdrawal of such rejection and passage to allowance of all pending claims.

Respectfully submitted,



Craig M. Waller
Registration No. 54,771

Attorney for Applicants

Kirkpatrick & Lockhart LLP
Henry W. Oliver Building
535 Smithfield Street
Pittsburgh, PA 15222
Telephone: (412) 355-8355
E-mail: cwaller@kl.com